

Will act as an ombudsman to deal with improper actions by IRS officials and provide relief in special cases;

Provides a pilot project for independent legal assistance to taxpayers in audits and appeals;

Provides reasonable restraints on IRS power to arbitrarily terminate a taxpayer's tax year and seize property without court review. It will also increase slightly the amount of property immune from seizure for living expenses;

Establishes safeguards against political misuse of the IRS on nontax related surveillance and establishes penalties for such misuse;

Provides major improvements in protecting the privacy of tax return information. Places new limits on disclosure of tax information to States and other Federal agencies and permits the taxpayer to collect civil penalties for unauthorized disclosure of tax return information; and represents a coordinated attack on many of the problems identified by my hearings and by others, like Congressman VANIK, who have pursued this subject.

Mr. President, I urge that the Finance Committee act on this bill and others before it, which have been pending since the 94th Congress convened, so that the full Senate can address these issues at the earliest possible time.

Mr. KENNEDY. Mr. President, I am pleased to join the distinguished senior Senator from Washington (Mr. MAGNUSON) and the other distinguished sponsors of the Federal Taxpayers' Rights Act of 1975.

The taxpayers' bill of rights is a landmark package of procedural tax reforms. For the first time in a generation, Congress is remembering the forgotten taxpayer.

These reforms will be a major step toward dispelling the fog and confusion and complexity surrounding the tax laws. The message is getting through. At last Congress hears the distress call of the average taxpayer—the senior citizen, the working men and women, and many others who have no lawyers or accountants or tax advisers to handle their problems.

With this bill, we are sending out a Saint Bernard to rescue millions of ordinary citizens from the avalanche of red-tape, confusion, forms, audits—and too often the outright bureaucratic hostility of the IRS—as they try to cope with the complexity and demands of the Nation's tax laws.

The bill will also end an even darker side of IRS activities—the gross violations of the privacy of tax information, the unauthorized IRS surveillance of private citizens, and the political abuses of the IRS that were all too common in the Watergate years.

I see this bill as a keystone of overall tax reform. These procedural changes must go hand in hand with the substantive tax reforms now being developed in the House and Senate. Too often in the past, in the constant struggle to close tax loopholes, Congress has ignored the goal of simplifying the tax laws and easing their burden on the average citizen.

There is a real chance that, before Congress adjourns next year, we can send the President the most far reaching and most comprehensive tax reform legislation in the Nation's history. The taxpayers' bill of rights must be part of that law. If we succeed, we can make the Internal Revenue Service a genuine and responsible servant of the American people, not just a tax collector.

The legislation we are introducing contains the following principal provisions:

First. It provides the General Accounting Office, an investigative arm of Congress, with authority to oversee IRS and report annually on IRS activities. Legal experts believe that GAO already has authority to carry out audits and investigations of IRS, but IRS refuses to accept such a role for GAO. The bill would settle the controversy and provide an important new avenue of oversight over IRS and its operations.

Second. It provides clear information to the public on taxpayer rights in audits, assessments, appeals, and other steps in the tax process. In this way, adequate notice of all rights and opportunities will be given to taxpayers in their dealings with IRS. In particular, the bill will require the IRS to advise a taxpayer of his rights at the time he is first contacted by the agency.

Third. It establishes a new "Taxpayer Service and Complaint Assistance Office," which will be headed by an assistant IRS commissioner and which will function as an ombudsman for the taxpayer. The new office will hear complaints, reduce delays in tracking lost refund checks, deal with improper or abusive treatment by IRS officials, and provide relief in special cases where IRS actions result in unnecessary injury to a taxpayer.

Fourth. It provides a pilot project of legal assistance for taxpayers involved in conferences, audits, and appeals with IRS. The project will be limited to four cities over a 3-year period, and will be conducted by the Legal Services Corporation. The assistance will be free for low-income taxpayers, but will be provided on a sliding fee scale for other taxpayers, based on income. Too often, faced with the complexity of the tax laws and the obstinacy of IRS, taxpayers are confused and forced to give up their rights. The pilot project is an effort to redress the balance by providing the sort of expert assistance that lawyers and accountants now provide for wealthy taxpayers.

Fifth. It limits the IRS power of seizure of property without court review—jeopardy assessment. It also limits the IRS power to terminate a tax year arbitrarily—termination assessment. In addition, it increases the amount of a taxpayer's living expenses which are immune from such assessments. The jeopardy assessment power is designed for cases where a taxpayer is trying to escape taxes by flight from the country, or is concealing or otherwise dissipating assets that may be needed to pay his taxes. The termination assessment power is used in drug enforcement and other crime control programs; it enables the IRS to make tax assessments against violators apprehended with large amounts

of drugs or large cash proceeds from illegal transactions. In such cases, the person's tax year can be terminated immediately, and taxes can be assessed. Although these powers are useful law enforcement tools, they are drastic weapons, since they can result in a taxpayer's being deprived of the funds he needs to defend himself. The bill provides protection for taxpayers by requiring immediate court review of such assessments.

Sixth. It establishes safeguards against the political misuse of the Internal Revenue Service by prohibiting IRS investigations, surveillance, or recordkeeping with respect to the beliefs, associations, or actions of individuals and organizations in areas not directly related to enforcement of the tax laws.

Seventh. It protects the privacy of tax returns by limiting the disclosure of tax information to State and Federal agencies and by permitting taxpayers to collect damages for unauthorized disclosure of tax data. The second article of impeachment, adopted by the House Judiciary Committee in 1974, charged President Nixon with violating the constitutional rights of citizens by obtaining confidential tax information and using it for political purposes. The bill would allow disclosure of tax information only for tax purposes. It would require the Justice Department to obtain a search warrant if it seeks tax information for criminal, nontax investigations. A taxpayer is given the right to seek civil damages against officials who violate the antidisclosure provisions.

By Mr. MAGNUSON (for himself and Mr. PEARSON) (by request):

S. 2343. A bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, by request, I send to the desk on behalf of myself and Senator PEARSON a bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures.

I ask unanimous consent that the letter of transmittal from Chairman Wiley of the Federal Communications Commission as well as the text of the bill be printed in the Record immediately following my remarks.

The Committee on Commerce has scheduled hearings on this legislation on September 23, 1975 at 10 a.m. in room 1318.

The purpose of this legislation is to unify and simplify the enforcement powers of the FCC. The FCC currently has inadequate authority to enforce effectively the provisions of the Communications Act. This bill expands FCC authority to impose and to collect fines for improper behavior. It establishes uniform treatment for behavior subject to regulation by the FCC. It ends the current anomaly which often times gives the FCC stronger enforcement powers over persons attempting to comply with the Communications Act than it has over persons operating purposely in contravention of the act.

The committee will look closely at this bill to insure it achieves its stated goals.

and protects the interests of all persons subject to regulation as well as the public.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2343

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Section 503(b) of the Communications Act of 1934 as amended (47 U.S.C. section 503(b)), is amended to read as follows:

"(b) (1) Any person who—

"(A) willfully or repeatedly fails to operate a radio station substantially as set forth in a license, permit or other instrument or authorization;

"(B) willfully or repeatedly fails to observe any of the provisions of this Act or of any certificate, rule, regulation, or order of the Commission prescribed under authority of this Act or under authority of any agreement, treaty, or convention binding on the United States;

"(C) violates section 317(c) or section 509

(a) (4) of this Act; or

"(D) violates sections 1304, 1343, or 1464 of title 18 of the United States Code;

shall forfeit to the United States a sum not to exceed \$2,000. Each act or omission constituting a violation shall be a separate offense for each day during which such act or omission occurs. Such forfeiture shall be in addition to any other penalty provided by this Act; *provided, however*, That such forfeiture shall not apply to conduct which is subject to forfeiture under title II of this Act; *and provided further*, That such forfeiture shall not apply to conduct which is subject to forfeiture under part II or part III of title III or section 507 of this Act.

"(2) No forfeiture liability under paragraph (1) of this subsection (b) shall attach to any person unless a written notice of apparent liability shall have been issued by the Commission, and such notice has been received by such person or the Commission shall have sent such notice by registered or certified mail to the last known address of such person. A notice issued under this paragraph shall not be valid unless it sets forth the date, facts and nature of the act or omission with which the person is charged, and specifically identifies the particular provision or provisions of the law, rule, regulation, agreement, treaty, convention, license, permit, certificate, other authorization, or order involved. Any person so notified shall be granted an opportunity to show in writing, within such reasonable period as the Commission shall by rule or regulation prescribe, why he should not be held liable.

"(3) No forfeiture liability under paragraph (1) of this subsection (b) shall attach to any person who does not hold a license, permit, certificate, or other authorization from the Commission unless prior to the written notice of apparent liability required by paragraph (2) above, such person has been sent a notice of the violation, has been given reasonable opportunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the person's place of residence and thereafter has engaged in the conduct for which notice of the violation was sent; *provided, however*, That the requirement of this subsection for a notice of the violation and opportunity for a personal interview shall not apply if the person is engaging in activities for which a license, permit, certificate, or other authorization is required or is providing any service by wire subject to the Commission's jurisdiction; *and provided further*, That any person who has been sent a notice of the violation, has been given a reasonable opportunity for a personal interview and thereafter en-

gages in the conduct for which the notice was sent shall not be entitled to a further notice for the same conduct and may be subject to forfeiture for the initial and all subsequent violations.

"(4) No forfeiture liability under paragraph (1) of this subsection (b) shall attach for any violation—

"(A) by any person holding a broadcast station license under title III of this Act if the violation occurred (i) more than one year prior to the date of the issuance of the notice of apparent liability or (ii) prior to the date beginning the current license term, whichever date is earlier, or

"(B) by any other person if the violation occurred more than one year prior to the date of issuance of the notice of apparent liability.

"(5) In no event shall the total forfeiture imposed for the acts or omissions set forth in any notice of apparent liability issued hereunder exceed—

"(A) in the case of (i) a common carrier subject to this Act, (ii) a broadcast station licensee or permittee, or (iii) a person engaged in distributing to the public broadcast signals by wire or engaged in distributing to the public other program services by wire if such activity is the subject of Commission regulation, \$20,000;

"(B) in the case of any other person, \$5,000.

Sec. 2. Section 510 of the Communications Act of 1934, as amended (47 U.S.C. § 510), is hereby repealed.

Sec. 3. Section 504(b) of the Communications Act of 1934, as amended (47 U.S.C. § 504 (b)), is amended by deleting the words "parts II and III of title III and section 503(b), section 507, and section 510" and substituting the words "title II and parts II and III of title III and sections 503(b) and 507", and by deleting the phrase "upon application therefor."

Sec. 4. Any act or omission which occurs prior to the effective date of this Act and which incurs liability under the provisions of sections 503(b) or 510 as then in effect will continue to be subject to forfeiture under the provisions of sections 503(b) and 510 as then in effect.

Sec. 5. The amendments made by this Act shall take effect on the thirtieth day after the date of its enactment.

FEDERAL COMMUNICATIONS COMMISSION,

Washington, September 15, 1975.

The VICE PRESIDENT,

U.S. Senate,

Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as part of its legislative program for the 94th Congress a proposal to amend the Communications Act of 1934, as amended, with respect to forfeitures.

The proposal, which bears the reference 94-2, would unify and simplify the forfeiture provisions as well as enlarge their scope to cover persons subject to the Act, but not subject to forfeitures, such as community antenna (CATV) systems.

The proposal would also provide for more effective enforcement of the forfeiture provisions. The limitation period for issuance of a notice of apparent liability would be extended from ninety days to one year for non-broadcast licensees and from one year for broadcast station licensees to one year or the remainder of the current license term, whichever is greater. All other persons would be subject to a one year statute of limitations. The maximum amount of forfeiture that could be imposed for a single offense would be \$2,000, and the maximum for multiple offenses would be \$20,000 for broadcast licensees, permittees and common carriers, and, CATV systems. The maximum forfeiture for all other persons would be \$5,000.

The Commission's draft bill to accomplish these revisions and the explanation of the

draft bill have been submitted to the Office of Management and Budget for their consideration. We have now been advised that from the standpoint of the Administration's program, there is no objection to our submitting the draft bill to Congress for its consideration.

The Commission would appreciate consideration of the proposed amendments to the Communications Act of 1934 by the Senate. If the Senate or the Committee to which this bill may be referred would like any further information on it, the Commission will be glad to provide it upon request.

Sincerely yours,

RICHARD E. WILEY,  
Chairman.

Enclosures.

EXPLANATION OF PROPOSED AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934 TO UNIFY AND STRENGTHEN CERTAIN PROVISIONS FOR THE USE OF FORFEITURES AND PENALTIES

The Federal Communications Commission recommends the amendment of the Communications Act of 1934, as amended, to unify, simplify and make more effective the forfeiture provisions of sections 503(b) and 510. Section 503 provides for forfeitures where a broadcast licensee or permittee violates the terms of his license, the Communications Act, a Commission regulation, a cease and desist order issued by the Commission, or specified provisions of title 18 of the United States Code. Section 510 provides separately for forfeitures applicable to non-broadcast radio stations where any one of twelve specified offenses occurs. It also provides for the imposition of a forfeiture upon the operator of the station in particular cases. It is proposed to amend section 503 (b) and repeal section 510 to place all of these classes of forfeiture under section 503 (b), which would be expanded to apply to all persons (other than where ship or common carrier forfeitures are otherwise provided for) who violate the Communications Act, a Commission rule or order prescribed under the Communications Act or a treaty, the terms of a license permit, certificate, or other instrument of authorization, or the obscenity, lottery, or fraud provisions of title 18 of the United States Code.

The principal objective of the proposed legislation is to unify and simplify the forfeiture provisions; to enlarge their scope to cover persons subject to the Act but not now under the forfeiture provisions—such as cable systems (CATV), users of Part 15 or Part 18 devices, communications equipment manufacturers, and others also subject to Commission regulations who do not hold licenses issued by the Commission; and to provide for more effective enforcement.

Prior to 1960 the Commission was empowered to revoke station licenses or station construction permits and to issue cease and desist orders to any person violating the Communications Act or a Commission rule (see section 312 of the Act) and to suspend operator licenses (see section 303(m) of the Act). There was no provision for a penalty of lesser magnitude than revocation or denial of renewal of station licenses. Because a penalty affecting the license was not warranted for all violations, the Commission needed an alternative for dealing with those who should continue to hold licenses.

Therefore, in 1960 section 503(b), 74 Stat. 889, was enacted to give the Commission the enforcement alternative of imposing forfeitures in the case of broadcast licensees or permittees; and in 1962, section 510, 76 Stat. 68, was added to permit the Commission to impose forfeitures on non-broadcast radio licensees for twelve specific kinds of misconduct. These forfeitures have proved to be useful enforcement tools.

However, after 13 years of experience and reevaluation under this enforcement scheme,

the Commission has concluded that common procedures with uniform sanctions for common carriers, broadcast entities, and other electronic communications businesses subject to our jurisdiction are required to deal effectively with the many forms of misconduct that impede the policy and purposes of the Communications Act. Moreover, there is a need in addition to make forfeitures applicable to the many forms of non-broadcast radio licensee misconduct that are not now covered by the twelve categories in section 510. In light of these problems, the Commission recommends that non-broadcast radio licensees no longer be governed by section 510, which should be repealed, and that they be governed instead according to the provisions of section 503(b), which should be expanded. This comprehensive and uniform treatment would mean that the misconduct which is now subject to forfeiture under section 510 would become subject to forfeiture under the proposed section 503(b).

The proposed amendment would make three additional material alterations in the Communications Act's existing forfeiture provisions. First, the forfeiture sanction would be made available against all persons who have engaged in proscribed conduct. Therefore, the amended section 503(b) would reach not only the broadcast station licensees and permittees now covered by section 503(b) and the other station licensees and operators now covered by section 510, but also any person subject to any provisions of the Communications Act<sup>1</sup> or the Commission's rules as well as those persons operating without a valid station or operator's license, those operators not required to have a license, and those licensed radio operators who are now subject only to suspension under section 303(m).

Second, the limitations period for the issuance of notices of apparent liability would be extended for broadcast station licensees from the present one year to one year or the current license term, whichever is greater, and for non-broadcast radio station licensees from the present ninety days to one year. For all other persons subject to forfeiture under the proposal, the limitations period would be one year.

Third, the maximum amount of forfeiture that could be imposed for the acts or omissions set forth in any single notice of apparent liability would be modified as follows: (1) the maximum forfeiture that could be imposed for a single offense would be \$2,000; and (2) the maximum forfeiture that could be imposed for multiple offenses would be (a) \$20,000 in the case of a common carrier, a broadcast station licensee or permittee, or a person engaged in distributing to the public broadcast signals by wire or engaged in distributing to the public other program services by wire if such activity is the subject of Commission regulation, and (b) \$5,000 in the case of all other persons. Existing section 503(b) provides for a maximum of only \$1,000 for single offenses by a broadcast station and \$10,000 for multiple offenses. Those persons subject to existing section 510(a) are liable only for \$100 for single offenses and a maximum of \$500 for multiple offenses.

The proposed amendments to broaden the Commission's forfeiture authority would alleviate the difficulties caused by the lack of forfeiture authority against CATV systems (or other communications businesses that may become subject to our jurisdiction), users of incidental and restricted radiation

devices, users of devices which contain radio frequency oscillators<sup>2</sup>, communications equipment manufacturers, persons operating without holding a required license, and others subject to Commission regulations. Except for the Commission's cease and desist authority, which is not an effective deterrent to misconduct, enforcement of the Act or Commission rules or orders against such persons now must be by judicial action under section 401 or criminal prosecution under sections 501 and 502.

In extending the forfeiture procedures to licensed operators, the proposed amendment would provide an administrative alternative to the sometimes unduly harsh penalty of license suspension now authorized in section 303(m). License suspension may be unduly harsh if it denies the offender his customary means of livelihood for the suspension period. License suspension may also cost the offender permanent loss of his job, or of his customers if he operates a mobile radio service maintenance business. The proposed extension of the section 503(b) forfeiture provisions to licensed operators would afford the Commission an effective medium for obtaining compliance by operators, but would not cause the secondary detriments which often stem from license suspension. The administrative penalty of forfeiture would also provide a more feasible alternative to cease and desist orders or judicial enforcement under sections 401, 501 or 502, against operators who are not required to hold a license and against whom, therefore, a license suspension is not an available penalty.

Under the proposal, forfeiture liability would arise only after (1) a person has been served personally with or been sent by certified or registered mail to his last known address a notice of apparent liability; (2) he has been given an opportunity to show in writing why he should not be held liable; and (3) if he has submitted a written response, the Commission has considered his response and issued an order of forfeiture liability.

In addition to these procedural protections applicable to all persons subject to our jurisdiction, we have provided special procedural protection for members of the public at large who may be unaware of the Commission's regulation of equipment they may be operating. For example, there may be concern that a person would be subject to forfeiture for willful maloperation of an electronic device such as a garage door opener, an electronic water heater, or electronic oven, when he may be unaware of the applicability of the Communications Act or the Commission's rules and regulations.<sup>3</sup>

In these circumstances, no forfeiture could attach unless prior to the notice of apparent liability the Commission has sent such person a notice of the violation and has provided him an opportunity for a personal interview and the person has thereafter engaged in the conduct for which notice of the violation was sent. It should be noted that the special protection provisions do not apply to persons engaged in an activity that

require the holding of a license, permit, certificate, or other authorization from the Commission or to one providing any service by wire subject to the Commission's jurisdiction.

It should be noted that this special procedure would not have to be accorded a second time to a person who subsequently engaged in the same conduct; and such person may be liable to a forfeiture not only for the conduct occurring subsequently but also for the conduct for which notice of a violation was sent and opportunity for a personal interview given.

Under existing provisions of the statute, which would not be changed, any person against whom a forfeiture order runs may challenge the order by refusing to pay. If the United States institutes a collection action, the issue of forfeiture liability would be reheard in a trial *de novo* in a U.S. District Court.

The second major modification in the Commission's proposal, the extension of the present time limitations for the issuance of notices of apparent liability is necessary if the Commission's forfeiture authority is to be an effective sanction. Because of increasing workloads and personnel shortages the ninety-day limitation in the non-broadcast services and the one-year limitation in the broadcast services are often substantial impediments to the use of the forfeiture sanction in appropriate cases. The Commission proposes that the statute of limitations for all persons holding broadcast radio station licenses under title III be extended to one year or the current license term, whichever is greater; for all other persons, the statute of limitations would be one year.

With over 32,000 authorizations in the broadcast services, more than 15,000 authorizations in the common carrier services, and over 2,000,000 authorizations in the safety and special services, it is impossible for Commission field office personnel to make regular inspections in all these services. Violations of the Communications Act or of the Commission's rules in the non-broadcast services are sometimes detected by station inspection but more generally through our field office monitoring. Monitoring usually requires transcription of tapes which in itself is a time-consuming process. Thereafter, as a matter of practice, the field office issues a notice of violation to the licensee and offers an opportunity to him to comment on or explain the alleged misconduct. In the overwhelming majority of cases, the nature and extent of the violation or the licensee's explanation thereof are such as to require no further action and the matter is closed. However, these notices of violation are also checked through the Commission's office in Washington and against licensee records, and in those instances where the licensee has a history of repeated misconduct or where the instant misconduct is willful and sufficiently serious, it may be determined that the imposition of a forfeiture is called for as an appropriate deterrent against future violations.

Our experience since the enactment of the Commission's forfeiture authority in the non-broadcast services demonstrates that with the imbalance between the number of violation cases and the number of staff personnel to review them, it is often impossible to issue the notice of apparent liability for forfeitures within the ninety-day period provided in the present statute. Considering the very great number of authorizations in the non-broadcast services, plus the great number of persons who are permitted to operate radio frequency equipment in accordance with our regulations but without holding an instrument of authorization, we believe a one year statute of limitations for notices of apparent liability is entirely reasonable and necessary to enable the Commission to

<sup>1</sup> A person subject to a forfeiture under title II or parts II or III of title III or section 507 of the Act would not, however, be subject to a forfeiture under the proposed section 503(b) for the same violation. This provision in the proposal is similar to a provision now in section 510.

<sup>2</sup> Part 15 of the Commission's rules governs the use of devices which only incidentally emit radio frequency energy and restricted radio devices such as radio receivers. Part 18 of the Commission's rules governs the use of industrial, scientific and medical equipment, such as industrial heating equipment, all of which incorporate radio frequency oscillators. Such devices are permitted to operate without issuance of an individual license provided that they are operated in accordance with the provisions in the rules designed to minimize interference to regular radio communications services.

<sup>3</sup> Should the maloperation of any such device create hazards to life or property, the Commission would still have authority under section 312 to issue a cease and desist order.

invoke more frequently the forfeiture provisions Congress has provided and thus to secure greater compliance with the Act.

Similarly, a longer statute of limitations is necessary in the broadcast field in order to enable the Commission to reach violations of the Act. The existing one-year limitations period is usually sufficient in cases arising from regular station inspection by field office personnel. However, personnel shortages do not permit more than one inspection during a three-year license term. Although violations may be disclosed and considered by the Commission during its review of license renewal applications, the comparatively minor character of such violations does not warrant denial of renewal and often the one-year period has elapsed before a notice of apparent liability can be issued. Further, in many instances, misconduct by broadcast licensees is not uncovered in regular station inspections by field office personnel, but comes to light as the result of complaints and other information received by the Commission staff in Washington. These complaints and other information may require detailed and time-consuming investigation of station operations before a determination can be made that there may have been misconduct.

Subsequent to the investigation the licensee has an opportunity to comment on or explain the alleged misconduct. Thus, it is often impossible for the Commission to consider questions as to apparent culpability and appropriateness of a forfeiture sanction and then to issue the required notice of apparent liability within the one-year limitation period now provided in section 503(b). Here again the legislative objective in vesting forfeiture authority in the Commission is often frustrated by the present time limitations.

Further, the one-year limitation for the issuance of notices of apparent liability in the broadcast field sometimes produces results which are self-defeating. Thus, in one instance the Commission received information that a radio station broadcast an allegedly rigged contest. Field investigation of the station initiating the program was begun as promptly as possible. The intricacies of the alleged misconduct required a time-consuming inquiry. During the course of the inquiry Commission investigators unearthed information revealing an earlier broadcast of another rigged contest concerning which there was extensive and conclusive evidence. However, upon completion of the field investigation, the Commission was able to impose a forfeiture for only the most recent misconduct because the earlier violation had occurred more than one year before. In such a case it is still possible of course to designate the license renewal application for hearing. We stress, nevertheless, that because refusal to renew the license was the only sanction available because of the short statute of limitations, the legislative purpose of section 503(b) of the Act could not be fully implemented. The Commission needs to be able to exercise its forfeiture authority during the entire span of a broadcast license term for minor violations occurring during that license term.

The Commission is therefore proposing for broadcast licensees a statute of limitations of one year or its current license term, whichever is greater. The proposal would permit the Commission to issue notices of apparent liability to broadcast station licensees (1) for any misconduct which occurs during a current license term and (2) for any misconduct which occurs during the last part of the prior license term if the notice of apparent liability is issued within a year of the time of the alleged misconduct.

The third major amendment the Commission is proposing is an increase in the maximum forfeitures. The currently avail-

able forfeitures are unrealistic and inadequate. In many situations the maximums are too low to permit the Commission to fashion an effective deterrent against large communications businesses. For example, the current maximum forfeiture available against a multimillion dollar broadcast licensee is \$1,000 for a single violation up to a maximum of \$10,000 for multiple violations. The proposal would provide more realistic forfeiture maximums for large broadcast interests, large common carriers, and other large communications businesses. Other persons would be subject to lower maximums. With the proposed maximums, the Commission would still retain the discretion to impose smaller forfeitures for offenses of lesser gravity. The Commission fully recognizes the necessity of tailoring forfeitures to the nature of the offense and the offender and has done so within the present statutory authority. Furthermore, the Commission would still have the authority to mitigate or remit forfeitures after considering a request for such relief.

One relatively minor amendment is also being proposed. By deleting section 510 as proposed, the Commission would be relieved of the obligation to provide a personal interview at the request of a non-broadcast station licensee or operator who receives a notice of apparent liability. Proposed section 503(b)(2), which incorporates much of the substance of section 510, does not include the interview provision. The Commission's experience is that only ten to fifteen percent of the persons to whom a notice of apparent liability has been issued avail themselves of the interview opportunity. Furthermore, seldom does an interview elicit any data which the licensee has not already furnished to the Commission, either in response to the notice of a violation or to the notice of apparent liability.

On the other hand, interviews in only ten to fifteen percent of these instances impose substantial burdens upon field offices. Critical engineering personnel must be diverted from regular pressing duties to interview the suspected violator and must then submit detailed reports to the Commission's main office in Washington, D.C. Commission personnel at the Washington, D.C. office then must coordinate all of the documents relevant to a given notice of apparent liability that may have been accumulated in several field offices and transmit the documents to the field office where the interview is scheduled. On balance, the Commission believes that the public, and the non-broadcast licensees and operators themselves, would best be served by the deletion of the field office interview provision from the forfeiture section.

Furthermore, it would be impossible for the Commission to continue interviews with non-broadcast licensees and at the same time provide personal interviews to members of that group who would now be subject to forfeitures for the first time and for whom special procedural protections are being proposed in section 503(b)(3). As between the two groups the Commission believes the public interest would be better served by the interviews that would be required under proposed section 503(b)(3).

Lastly, the Commission is seeking authority to mitigate or remit forfeitures imposed under title II of the Communications Act concerning common carriers. The Commission now has no express authority to remit, mitigate, or otherwise reduce a forfeiture imposed under these common carrier provisions, although section 504(b) provides express authority to mitigate or remit forfeitures under parts II and III of title III, and sections 504(b), 507 and 510. Since the Commission has this authority with respect to all other forfeitures which it can summarily impose, there is no reason not to include within this authority the common car-

rier forfeitures in title II. Moreover, it is reasonable to permit the Commission to exercise its authority to mitigate or remit on its own motion rather than awaiting an application. The Commission should be able to exercise its judgment before imposing a fine if the circumstances warrant a reduction or cancellation of a forfeiture.

In conclusion, the more uniform, comprehensive, and higher forfeiture provisions and the related modifications which the Commission now seeks should contribute substantially to greater compliance with the law and better administrative enforcement of the law.

Adopted: October 9, 1974.

By Mr. BENTSEN (for himself and Mr. NELSON):

S. 2344. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to reporting requirements for small plans. Referred to the Committee on Finance and the Committee on Public Works, jointly, by unanimous consent.

#### PENSION PAPERWORK REDUCTION ACT

Mr. BENTSEN. Mr. President, I am today introducing legislation, together with Senator NELSON, to amend the new pension law—the Employee Retirement Income Security Act of 1974—to specifically require the Secretary of Labor to issue simplified reporting and disclosure requirements for small pension plans. I am pleased to have Senator NELSON join me as a cosponsor of this bill. Senator NELSON is chairman of both the Senate Small Business Committee and the Subcommittee on Private Pension Plans of the Senate Committee on Finance.

This proposal will relieve thousands of small businessmen across our Nation from unreasonably burdensome and costly paperwork. Detailed reporting requirements that may be applicable to our Nation's largest private pension plans are simply not needed for the smallest pension plans. In fact, many small businessmen may be forced to terminate their retirement plans if the paperwork burden becomes too costly and overwhelming.

Mr. President, I was one of the principal Senate sponsors of the landmark pension bill. This law will guarantee that earned pension benefits become a reality for millions of American workers upon retirement. This law will strengthen our private retirement system by eliminating the small number of abuses and aberrations. The amendment I am introducing today is entirely consistent with the intent of the new pension act. The new law gives the Secretary of Labor the authority to issue simplified reporting requirements for small plans. It was the clear intent of the congressional sponsors of this legislation that this authority be exercised. My amendment would simply direct the Secretary of Labor to issue simplified forms for retirement plans with less than 100 participants.

Americans too often forget the indispensable role of small business in promoting healthy competition in our economy creating jobs for a growing work force and developing innovative ideas and products. Small business, in many ways, is the essence of our country's promise.

However, this promise will never be fulfilled unless Congress prevents need-